



Office for Product
Safety & Standards

General Product Safety Regulations 2005

As they apply to products being supplied in or into Great
Britain from 1 January 2021

Guidance

January 2021



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Guidance

1. Introduction

The General Product Safety Regulations 2005 provide the basis for ensuring the safety of consumer goods by setting requirements and providing a range of provisions to secure compliance and enforcement with the requirements.

This guidance is designed to help you comply with the General Product Safety Regulations 2005 (GPSR) as amended by the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 (referred to in this document as “The 2005 Regulations”), and the requirements on placing products on the GB market that fall under these Regulations from 1 January 2021¹.

The government has committed to providing unfettered access for qualifying Northern Ireland goods to the rest of the UK market after 1 January 2021. Products regulated under the GPSRs that can be placed on the market in Northern Ireland in accordance with the legislation, as it applies to Northern Ireland, can be sold in the rest of the UK.

You can find out more about qualifying Northern Ireland goods here:

<https://www.gov.uk/guidance/moving-qualifying-goods-from-northern-ireland-to-the-rest-of-the-uk>

2. Legislative Background

The General Product Safety Regulations 2005 implemented Directive 2001/95/EC on general product safety. The EU Withdrawal Act 2018 preserves the Regulations and enables them to be amended so they can continue to function effectively now the UK has left the EU. Accordingly, the Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019² fix any deficiencies that arose from the UK leaving the EU (such as references to EU institutions) and make specific provision for the GB market. The main aim of the 2005 Regulations is to ensure that only safe products are supplied on the GB market.

There is therefore one set of UK 2005 Regulations, but some of the provisions apply differently in NI for as long as the Northern Ireland Protocol is in force. References to the 2005 Regulations in this guidance are references to those Regulations as they apply in Great Britain. For guidance on placing on the Northern Ireland market, please see:

<https://www.gov.uk/government/publications/general-product-safety-regulations-2005>

¹ The Implementation or Transition Period officially ends at 11pm on 31 December 2020; therefore references to 1 January 2021 should be read as meaning 11pm on 31 December 2020.

² The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 were amended by the Product Safety and Metrology etc. (Amendment to Extent and Meaning of Market) (EU Exit) Regulations 2020 to apply to Great Britain only, and not to Northern Ireland, in support of implementing The Protocol of Ireland and Northern Ireland (“The Northern Ireland Protocol”). The Product Safety and Metrology etc. (Amendment etc.) (EU Exit) Regulations 2019 were further amended by the Product Safety and Metrology etc. (Amendment etc.) (UK(NI) Indication) (EU Exit) Regulations 2020 but these are not relevant to the General Product Safety Regulations.

3. Scope

The 2005 Regulations apply to products intended for or likely, under reasonably foreseeable conditions, to be used by consumers.

Where a product is subject to other specific provisions in any relevant retained EU law (for example, certain toys) then those specific regulations will apply to that product; the 2005 Regulations do not apply to the safety of a product where there are specific provisions of relevant retained EU law. These regulations provide a baseline of safety for applicable consumer products.

The 2005 Regulations also apply where they go further than the specific regulations in terms of the specific aspects of safety covered and the extent of the obligations on manufacturers and distributors. The 2005 Regulations apply to all products intended for or likely to be used by consumers (even if not intended for them) that are supplied (including made available). This includes products supplied or made available to consumers for their own use in the course of a service – for example, gym equipment for use in a gym, high chairs provided for use by diners in a restaurant and trolleys for use by shoppers.

4. Presumption of Conformity

The 2005 Regulations state that when a product conforms to a voluntary national standard of the United Kingdom, as determined and published by the Secretary of State, the product shall be presumed to be a safe product so far as concerns the risks and categories of risk covered by the standard.

5. Obligations of producers (which can include importers)

From 1 January 2021, producers³ will include GB-based manufacturers, and UK-based importers, of products regulated under the 2005 Regulations.

The obligations of producers (including importers) include:

1. Before placing a product on the GB market or agreeing to place a product on the GB market, a producer must ensure that it is a safe product, i.e. one which under normal or reasonably foreseeable condition of use does not present any risk or only the minimum risk compatible with the product's use, considered to be acceptable and consistent with a high level of protection of health and safety.
2. Producers must provide consumers with the relevant information to enable them to assess the risk inherent in a product throughout the normal or reasonably foreseeable period of its use (where such risks are not immediately obvious) and to take precautions against those risks.
3. Producers must also allow for traceability by indicating on the product or its packaging, where reasonable to do so:
 - a) the name and address of the producer; and
 - b) the product reference or, where applicable, the batch of products to which it belongs.
4. Producers must adopt measures to enable them to be informed of risks the product might present, including (to the extent that it is reasonable):

³ Defined in section 9 (The Glossary).

- a) sample test marketed products
- b) investigate and, if necessary, keep a register of complaints concerning the safety of the product; and
- c) keep distributors informed of the results of such monitoring where a product presents a risk or may present a risk.

The British Standards Institution (BSI) has published a Code of Practice on Corrective Actions and Recalls that provides guidance on fulfilling these obligations.

6. Obligations of distributors

The obligations of distributors⁴ include:

1. Distributors must act with due care to help ensure only safe products are supplied and must not supply products that, as a professional, they know or ought to know to be dangerous. For example, if a product has been subject to a recall, distributors must not supply any they may still have in stock.
2. Distributors should pass on information on the risks posed by the product.
3. Distributors should be able to show traceability of the products they supply; documentation should be retained that shows from whom the goods were purchased.
4. Distributors must cooperate with the enforcement authorities at their request. This includes the provision of information relating to the product, the nature of the risk, the product's supply and marketing, and also in taking appropriate action to remove the risk from consumers such as participating in any corrective action or recall activities.

Can you be contacted easily if there is a problem?

Where an importer of consumer products covered by the 2005 Regulations finds that, while they are adjusting to new arrangements, it is not reasonable for them to indicate on the (individual) product or its packaging their name and address, then the importer may adopt an alternative approach so that each product is traceable back to its source by the final end user (consumer) and a regulator.

This may be by placing the information on a document accompanying a batch, and methods which enable traceability of the product after the initial batch has been broken up could include:

- The importer address is present in shipping documents.
- The importer address is present on the invoice to the GB customer.
- The importer address is present on the label that is on the outer packaging ("shipper") in which a number of finished goods is packed (normally customers will receive shippers unless the order is very small so that the shipper has to be opened and split).

You should work with your distributors to ensure physical documentation does accompany batches of product as far as possible, and in all cases that there are measures in place to ensure end users are able to identify the UK importer.

⁴ Defined in section 9 (The Glossary).

Alongside that, but not as an alternative, you can use your company website to provide more information, access to product details and contact points for retailers, consumers and enforcement bodies.

These options are for a time limited period only and may not be used after 31 December 2022. You are encouraged to put in place measures to ensure that individual items do carry the importer's address where required ahead of this date.

7. Obligations of producers and distributors

Where a producer or distributor discovers (perhaps as a result of a consumer complaint) that a product they have supplied poses risks to the consumer, and is unsafe, they must immediately notify the relevant enforcement authority in writing. In Great Britain this will normally be the local trading standards authority.

Producers and distributors must cooperate with the enforcement authorities at their request. This includes the provision of information relating to the product and taking appropriate action to remove the risk from consumers. In cases where it is identified the product poses a serious risk, information enabling precise identification, a full description of the risk, all available information relevant for tracing the product and a description of the action undertaken to prevent risks to the consumer must be included in the notification.

The enforcement authorities will advise on actions aimed at removal of the risk and work with businesses on completing the notification.

8. Enforcement

In Great Britain, local trading standards authorities have a duty to enforce the Regulations in relation to consumer goods.

The 2005 Regulations also provide powers to the Secretary of State to enforce the Regulations.

Where a product is dangerous and/or there has been a breach of the 2005 Regulations, enforcement authorities have a range of powers to protect consumers and take action against producers or distributors with respect to products. All parties concerned must, whenever feasible, be given an opportunity to submit their views before the adoption of an enforcement measure. Where, due to the urgency of the situation it is not feasible to submit views before action is taken, an opportunity will be given to submit views afterwards.

The measure chosen will be proportionate to the risk.

The Secretary of State will operate a database with information on market surveillance and product safety. An enforcement authority receiving a notification of risk will notify the Secretary of State through the database, and this notification should include measures adopted.

Suspension Notices

Where the enforcement authority has reasonable grounds to suspect that there may have been a contravention of the Regulations, these notices temporarily ban the placing on the GB market or the supply of a product while tests are undertaken, and the results are awaited.

Requirement to Mark / Requirement to Warn

These powers allow an enforcement authority to require the marking of a product with suitable warnings where it could pose risks in certain conditions, or require that specific warnings be given to certain persons considered to be at risk from a product - for example, young children, the elderly, etc.

Withdrawal Notices

Enforcement authorities can serve a withdrawal notice to prevent a person from supplying a product that is believed to be dangerous.

Recall Notices

Enforcement authorities can serve a recall notice in cases where they have reasonable grounds to believe a product is dangerous and it has already been made available to consumers. This recall notice may require the recall to comply with the applicable code of practice. A recall notice can only be served where other corrective actions, including those already taken by the producer or distributor, are insufficient in preventing the risks to consumers.

Regulators' Code

Enforcement authorities must continue to have regard to the Regulators' Code when developing the policies and operational procedures that guide their regulatory activities in this area. They should carry out their activities in a way that supports those they regulate to comply and grow, including choosing proportionate approaches that reflect risk.

In responding to non-compliance that they identify, enforcement authorities should clearly explain what the non-compliant item or activity is, the advice being given, actions required, or decisions taken, and the reasons for these. Unless immediate action is needed to prevent a serious breach, regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent. The Secretary of State takes account of the provisions of both the Regulators' Code and the Growth Duty in exercising his regulatory functions.

A link to the Regulators' Code can be found here:

<https://www.gov.uk/government/publications/regulators-code>

Penalties

A person committing an offence under the Regulations as amended may be liable to a penalty. Penalties can include a fine of up to £20,000 or a prison sentence of up to 12 months or both for the most serious offences. The court may also forfeit any or all unsafe goods.

It is a matter for the enforcement authority to decide what enforcement action is appropriate in each case, taking into account the circumstances of the case and the enforcement authorities' own policies, operational procedures and practices in line with the Regulators' Code.

9. Glossary

- **Distributor** – Any professional in the GB supply chain, whose activity does not affect the safety properties of a product.
- **Enforcement Authority** – Local trading standards authorities and the Secretary of State, any other Minister of the Crown in charge of a government department can enforce the 2005 Regulations.
- **Producer** –
 - (a) the manufacturer of a product, when they are established in the UK and any other person presenting themselves as the manufacturer by affixing to the product their name, trademark or other distinctive mark, or the person who reconditions the product
 - (b) when the manufacturer is not established in the UK:
 - (i) if he has a representative established in the UK, the representative
 - (ii) in any other case, the person established in the United Kingdom that places a product from a country outside the United Kingdom on the GB market; and
 - (c) other professionals in the supply chain, in so far as their activities may affect the safety properties of a product.

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Office for Product Safety and Standards

Department for Business, Energy and Industrial Strategy
4th Floor, Cannon House, 18 The Priory Queensway, Birmingham B4 6BS
<https://www.gov.uk/government/organisations/office-for-product-safety-and-standards>